

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.482 OF 2022

1. Madhuri Dipak Kolge,
Age : 31 years, Occu: Household,
R/o. at present Near Jatra Hotel,
Nandur Naka, Nashik.
2. Balasaheb @ Subhash Ramdas Kotkar,
Age : 53 years, Occu: Business,
R/o. Mhasoba Chowk, Nepti – Road,
Kedgaon, Dist. Ahmednagar. ... **APPLICANTS**

VERSUS

1. The State of Maharashtra
2. The Investigating Officer,
Bhingar Camp Police Station,
Ahmednagar.
3. Pooja Sangram Kotkar,
Age : 28 years, Occu: Household,
at present C/o. Ramesh Govindrao Deokar,
R/o. Gugale Colony, Near Ganpati Temple,
Burhannagar, Tq. & Dist. Ahmednagar. ... **RESPONDENTS**

...

Advocate for Applicants : Mr. Dattatraya R. Jayabhar

APP for Respondent/State : Mr. M.M. Nerlikar

Advocate for Respondent No.3 : Mr. Adinath B. Jagtap (appointed)

...

**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

DATE : 16.11.2022

PER COURT :

By invoking the power under Section 482 of the Code of Criminal Procedure, the applicants are seeking quashment of the Crime No.I-91/2021 dated 04.03.2021 registered at the instance of the respondent

No.2 with Bhingar Camp Police Station, Ahmednagar for the offence punishable under Section 498-A, 323, 504, read with Section 34 of the Indian Penal Code.

2. The sum and substance of the allegations contained in the FIR are to the effect that soon after her marriage she was subjected to cruelty by raising a demand for money. It is alleged that the applicants who are the married sister-in-law and the cousin father-in-law were instigating the husband and the mother-in-law to put up the demand for money as well as for transfer of flat and plot.

3. The learned advocate for the applicants submits that the applicants are being falsely implicated with an ulterior motive to cause harassment. The applicant No.1 is a married sister-in-law and has been residing at her matrimonial home whereas the applicant No.2 is a distant relative and not cousin father-in-law as is being alleged. The allegations against both of them are vague and omnibus. The husband and mother-in-law are not before this Court. It would be abuse of the process of law if they are made to face the prosecution.

4. The learned APP and the learned advocate for the respondent No.2 point out the statements of the parents of respondent No.2 as well as an independent witness Mr. Gorakh Dalvi with whose intervention the respondent No.2 was able to resume cohabitation in the matrimonial home. They submit that the applicants have been specifically named not only in the FIR but even in the statements of all these witnesses recorded under Section

161 of the Code of Criminal Procedure. Specific role is attributed to them of instigating the husband and mother-in-law in raising the demand for money and transfer of the property for which reason the respondent No.2 was subjected to cruelty. They submit that an opportunity needs to be extended to her to substantiate the allegations and the prosecution cannot be quashed at the threshold.

5. We have considered the rival submissions. In the matter of **Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar and Ors.;**(2022) 6 SCC 599 in paragraph No.18, the Supreme Court had an occasion to consider a similar request wherein vague and omnibus allegations were levelled against the relatives of the husband and the proceeding was quashed. Paragraph No.18 reads as under :

“18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”

6. Going by the allegations in the FIR and the statements of the

witnesses who are the parents of the respondent No.2, though the names of the applicants appear and some role is attributed to them of instigating the husband and the mother-in-law to raise a demand of money as well as of transfer of property, there are no allegations about the extortion was also to subject respondent No.2 to cruelty on account of the so called demand.

7. Following the principles laid down in the matter of **State of Haryana V/s Bhajan Lal; 1992 Supp (1) SCC 335**, the case is squarely covered by the guidelines Nos.1,3,5 and 7. It would be sheer abuse of the process of Court if the applicants are made to face the prosecution with such vague and omnibus allegations.

8. The Application is allowed. The Crime bearing FIR No.I-91/2021 dated 04.03.2021 registered with Bhingar Camp Police Station, Ahmednagar is quashed and set aside.

9. Learned advocate Mr. Adinath B. Jagtap has been appointed to represent the respondent No.2. We quantify his fees at Rs.3000/-.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)